

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BRYNDON FISHER, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 13-608C
)	(Judge Sweeney)
THE UNITED STATES,)	
)	
Defendant.)	

**DEFENDANT’S UNOPPOSED MOTION TO REVISE THE
BRIEFING SCHEDULE FOR DEFENDANT’S OMNIBUS MOTION TO DISMISS**

Pursuant to Rules 6(b), 6.1, and 7 of the Rules of the United States Court of Federal Claims (RCFC), the United States respectfully requests that the Court revise the current briefing schedule for the Government’s omnibus motion to dismiss, as reflected in the Court’s February 21, 2018 order (ECF No. 399), to add an additional 34 days to all of the current briefing deadlines. As revised, the new briefing deadlines would be the following: (1) the Government’s omnibus motion to dismiss would be due on or before August 1, 2018; (2) plaintiffs’ response to the omnibus motion would be due on or before October 23, 2018; and (3) the Government’s reply in support of the omnibus motion would be due on or before January 22, 2019. We have conferred with counsel for plaintiffs, who represent that plaintiffs do not oppose our motion for enlargement.

Good cause exists to grant this motion. Five new complaints have been filed since the original briefing schedule was set. On February 21, 2018, when the current schedule was set, the Government expected to respond to the seven complaints pending at that time, namely those filed in *Fairholme Funds, Inc., et al., v. United States*, No. 13-465C, *Arrowood Indemnity Co., et al., v. United States*, No. 13-698C, *Joseph Cacciapalle, et al., v. United States*, Nos. 13-466C, 13-496C, 13-542C, *Bryndon Fisher, et al., v. United States*, Nos. 13-608C, 13-672C, *Washington*

Federal, et al., v. United States, No. 13-385C, *Bruce Reid et al., v. United States*, 14-152C, and *Louise Rafter, et al., v. United States*, No. 14-740C. Thereafter, on April 24, 2018, the Court coordinated briefing of those seven amended complaints with five additional complaints: *Owl Creek Asia I, L.P. et al., v. United States*, No. 18-281C, filed on February 23, 2018; *Akanthos Opportunity Master Fund, L.P., v. United States*, No. 18-369C, filed on March 8, 2018; *Appaloosa Investment Limited Partnership I et al., v. United States*, No. 18-370C, filed on March 8, 2018; *CSS, LLC, v. United States*, No. 18-371C, filed on March 8, 2018; and *Mason Capital L.P. et al., v. United States*, No. 18-529C, filed on April 11, 2018. At present, the Government must respond to 12 complaints, and the Government needs the additional four weeks to respond to these five newly-coordinated complaints.¹

In addition, the Government's counsel of record in this case has been required to conduct and defend numerous fact depositions in two other cases currently pending before the Court for which he is lead counsel: *Colonial Chevrolet, Co., Inc., et al. v. United States*, No. 10-647C (Fed Cl.), and *TES v. United States*, No. 15-1566C (Fed. Cl.) (fact discovery extended on plaintiff's motion). Further, one of the primary authors of our omnibus motion to dismiss recently tried a case, *Alutiiq Manufacturing Company LLC v. United States*, No. 15-881C (Fed. Cl.), that was initially scheduled for eight days in April, in Denver, Colorado. Subsequently, the length of the trial was extended by five days over two separate weeks in May, and is expected to continue later this summer. Consequently, given the press of business in other cases before the Court, good cause exists for the revision of the briefing schedule that we request.

¹ We note that, since the Court issued its April 23, 2018 order, two additional complaints have been filed, in *683 Capital Partners, LP v. United States*, No. 18-711C (Fed. Cl.) and *Joseph S. Patt, et al., v. United States*, No. 18-712C (Fed. Cl.). We plan to file a motion to stay those cases pending resolution of our omnibus motion to dismiss.

For these reasons, we request the Court extend all briefing deadlines by 34 days, to and including August 1, 2018, for the Government's omnibus motion to dismiss, to and including October 23, 2018, for the plaintiffs' response to the omnibus motion, and to and including January 22, 2019, for the Government's reply in support of its omnibus motion.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Kenneth M. Dintzer
KENNETH M. DINTZER
Deputy Director
Commercial Litigation Branch
Civil Division
Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, D.C. 20044
(202) 616-0385
(202) 307-0972 fax

June 19, 2018

Attorneys for Defendant